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JAN 13 2006

CLERK U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

KAZUKO SHINAGAWA,

Defendant.

No. CR 05-00776 JW

**ORDER OF THE COURT EXCLUDING
TIME FROM THE SPEEDY TRIAL
ACT [18 U.S.C. §§ 3161 *et seq.*]**

On motion of the United States, made orally on January 10, 2006, and without objection from the defendant, the court FINDS as follows.

The case came before the court today for identification of counsel and the signing of a bond for the defendant's release on conditions previously set. At the conclusion of the hearing the parties asked the court to set a date for the defendant's first appearance before the trial judge in the matter, the Honorable James Ware. Judge Ware's regular criminal calendar is heard on Mondays at 1:30 p.m. Counsel for the government, Assistant United States Attorney Gary G. Fry, advised the court that he was going to be unavailable during the week of Monday January 19, 2006, and requested that the court set the hearing for Monday, January 23, 2006, instead. The

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1 court granted the motion without objection from the defendant..

2 Mr. Fry, again without objection from the defendant, then asked the court to excluded
3 time under the speedy trial act based on the need for continuity of government's counsel, and the
4 need of the defendant for effective preparation. According to counsel for the government,
5 discovery in this bank fraud case involves documents that fill approximately one "banker's box,"
6 and counsel for the defendant is going to need time to review them.


7 Therefore, pursuant to 18 U.S.C. § 3161(h)(8)(B)(iv), the court excludes 13 days (*i.e.*,
8 from January 10, 2006, to January 23, 2006) to allow counsel for the defendant reasonable time
9 for effective preparation (taking into account the exercise of due diligence). The court FINDS
10 that the ends of justice served by this delay outweigh the best interests of the public and the
11 defendant (who has not objected) in a speedy trial. See 18 U.S.C. § 3161(h)(8)(A).

12 In addition, the court also FINDS that a delay of 13 days is necessary to provide the
13 government with continuity of counsel, within the meaning of 18 U.S.C. § 3161(h)(8)(B)(iv).

14 Therefore, based on the foregoing, the court ORDERS that a period of 13 days, *i.e.*, from
15 January 10, 2006, to January 23, 2006, is hereby excluded from the period of time that trial in
16 this matter would otherwise have to commence under the Speedy Trial Act, 18 U.S.C. §§ 3161 *et*
17 *seq.*

18 IT IS SO ORDERED.

19
20 Date: 1/12/06


HON. PATRICIA V. TRUMBULL
United States Magistrate Judge